

REMARKS

Claims 1, 3-17, 19-33 and 35-52 are pending. Withdrawn claims 49-52 have been cancelled. No claims have been amended or added.

I. Provisional Rejections

Claims 1, 3-17, 19-33 and 35-48 were provisionally rejected based on obviousness type double patenting as being unpatentable over claims 1-28 of copending U.S. Patent Publication No. 2005/0027327, and over claims 1-30 of copending U.S. Patent Publication No. 2005/0027326. Terminal disclaimers over the cited applications are submitted herewith.

II. Rejections Under 35 USC § 103

Claims 1, 3-17, 19-33 and 35-48 were rejected under 35 USC § 103(a) as unpatentable over U.S. Pat. No. 5,769,671 to Lim (Lim) in view of U.S. Pat. No. 5,769,671 to Anscher, et al. (Anscher). This rejection is again respectfully traversed.

The rejections were traversed based upon three independent arguments, only the first of which was dealt with by the Final Office Action. The second and third arguments set forth additional missing elements of the claimed invention and again were not addressed in the Final Office Action. Applicants can only assume they were accepted.

As such, all claims affected by these second and third arguments (all remaining claims) are respectfully asserted to be allowable, because the following two arguments, repeated verbatim from the previous response, remain undisputed. The arguments are as follows and relate to all claims. As such, all claims should be in allowable condition in conjunction with the terminal disclaimers submitted herewith.

“In addition, as noted above, the Office Action does not even mention the requirement that the first arm and the second arm are partially spread apart so that the ends are non-overlapping and aligned so that the first end abuts the second end and the first side wall is not adjacent to and engaged against the second side wall when the connector clip is in the second position within the housing as required by all claims. This missing teaching is also not present in Anscher or suggested by it. Like the clip in Lim, the overlapping free ends of the clip in Anscher are not disclosed as abutting one another when located in a housing. The Anscher clip isn't even disclosed as locatable within a housing. If the Anscher clip were located in a housing of the type employed in Lim, the intended path of access of the cable (from the side) would be blocked, defeating the basic purpose of the Anscher clip, which is to engage cables in regions far removed from their ends.

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this second reason as well.

Further, Anscher discloses two embodiments, one intended to engage a single cable, the other intended to engage multiple cables. While neither situation is directly analogous to that of the present invention, the embodiment directed to engaging a single cable or tube comes closest. This is the embodiment illustrated in Figures 2 and 3, which has non-overlapping ends. The embodiment cited by the examiner, and in particular its overlapping ends, are disclosed specifically as directed to holding multiple cables or tubes. To the extent Anscher is arguably relevant to the question of engaging a single cylindrical member, as in the present invention and in Lim, it teaches non-overlapping ends. As such, Anscher teaches directly away from the change to Lim proposed by the Examiner and thus directly away from the claimed invention.

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this third reason as well.”

The only new argument made in the Final Action, upon which all rejections also depend, is the following:

“ The Applicant argues that the clip defined by Anscher defines an opening parallel to the path of the cable it connects. However, as depicted in the figures, the connector clip is perpendicular to the axis of the cable. Thus the connector clip as disclosed by Anscher is oriented perpendicular to the insertion axis of orientation of the cable.”

As a summary of Applicant's argument, this statement is flatly incorrect.

Applicants in fact stated:

“Both the clip in the Lim patent and that of the present invention as claimed comprise a “connector clip being oriented perpendicular to the insertion axis of orientation of the proximal end of a lead such that the arms, the non-overlapping ends of the arms, and the top portion together circumscribe an opening through which the proximal end of a lead passes during insertion. ”

Applicants further argued:

“Like Darby and the paper clip, in use the Anscher clip defines an opening parallel to the path along which the cable it connects is inserted. Its operational mechanism is thus directly contrary to that required by the claims.”

The examiner is respectfully reminded that in Anscher, the axis of insertion of the lead is perpendicular to the axis of the lead. Rather than being inserted along the Axis of the lead, the lead is pushed sideways into the clip of Anscher. Therefore, with the opening therethrough being considered to be as defined by the Examiner, the clip of Anscher although perpendicular to the axis of the lead itself, is parallel to the axis of insertion of the lead, precisely as argued by Applicants.

Because the Examiner's argument relies upon a mischaracterization of Applicant's prior argument, it is correspondingly improper. Withdrawal of all rejections is again respectfully requested for this reason.

Further, as previously argued, this difference between the clips of Anscher and Lim make the Examiner's proposed modification unobvious.

Applicants previously stated:

"The Examiner again takes the position that such a modification is obvious because "it was known in the art that overlapping the free ends of a clip provide the predictable results of reinforcement and support for engaging a lead." This argument, however, does not appear to be directed toward any limitation of the present claims or even to the invention as disclosed in the present specification. The ends of the Lim clip do not even engage the lead when inserted therethrough. Merely making them overlap as in the presently claimed invention would not change this basic fact. Indeed in the clip of the present invention the overlapping ends similarly do not contact, support or reinforce the lead when inserted. How can modifying the Lim clip as argued by the Examiner obviously produce "the predictable results of reinforcement and support for engaging a lead" when the invention as claimed does not even produce this result?"

The above statements are not disputed by the Examiner.

The Examiner's previous argument for modification of the Lim clip was contrary to common sense because it was unrelated to the limitations of the claims. No substitute argument of obviousness for making the modification has been presented. As such, the obviousness rejection is further improper under the Guidelines set forth in the September 10 Federal Register, and in the MPEP, which state as follows:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in

KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”

Withdrawal of the rejection of all remaining claims over Lim and Anscher is respectfully requested for this third reason as well.

III. Conclusion

In view of the above, Applicants respectfully request reconsideration and withdrawal of the above rejection of claims 1, 3-17, 19-33 and 35-48 under 35 U.S.C. § 103(a).

Presumably the Examiner has finished with all of the searching she is going to do. It is respectfully asserted that the time has come to allow this application to issue. The time and expense associated with an additional appeal brief is respectfully asserted to be unjustified. Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone Reed Duthler at (763) 526-1564 to attend to these matters.

Respectfully submitted,

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